

ORIGINAL

AUSA: William K. Stone

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**24 MAG 260**

UNITED STATES OF AMERICA

v.

DERICK COLON,

Defendant.

COMPLAINT

Violations of 18 U.S.C. §§ 2251(a), 2251(e), 2252A(a)(2)(B), 2252A(b)(1), 2252A(a)(5)(B), and 2252A(b)(2)

COUNTY OF OFFENSE:
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

STACY TURANSKY, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE
(Sexual Exploitation of a Child)

1. From at least on or about January 19, 2024, through at least on or about January 21, 2024, in the Southern District of New York and elsewhere, DERICK COLON, the defendant, knowingly employed, used, persuaded, induced, enticed, and coerced a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and for the purpose of transmitting a live visual depiction of such conduct, knowing and having reason to know that such visual depiction would be transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce and mailed, and the visual depiction was produced and transmitted using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer, and the visual depiction was actually transported and transmitted using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce and mailed, to wit, COLON induced at least one minor who appears to be approximately six to eight years old ("Victim-1") to engage in sexually explicit conduct, used his iPhone to record the activity, and then transmitted the videos of Victim-1 over the Internet to an individual in Massachusetts.

(Title 18, United States Code, Section 2251(a) and (e).)

COUNT TWO
(Receipt and Distribution of Child Pornography)

2. From at least on or about January 19, 2024, through on or about January 21, 2024, in the Southern District of New York and elsewhere, DERICK COLON, the defendant, knowingly received and distributed material that contains child pornography using a means and facility of interstate and foreign commerce and that has been mailed and has been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, COLON distributed video files containing sexually explicit images of a minor, including video of

a minor engaged in sexually explicit conduct, by sending said materials over a mobile messaging application to another individual.

(Title 18, United States Code, Sections 2252A(a)(2)(B) and (b)(1).)

COUNT THREE
(Possession of Child Pornography)

3. From at least on or about January 19, 2021, through at least on or about January 21, 2021, in the Southern District of New York and elsewhere, DERICK COLON, the defendant, knowingly possessed and accessed with intent to view a book, magazine, periodical, film, videotape, computer disk, and other material that contained an image of child pornography that had been mailed, shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, COLON possessed sexually explicit images of minors, including images of prepubescent minors and minors who had not attained 12 years of age, in his residence in the Bronx, New York.

(Title 18, United States Code, Sections 2252A(a)(5)(B) and (b)(2).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

4. I have been a Special Agent with the Federal Bureau of Investigation ("FBI") for the past seven years, and I am currently assigned to the New York Office. I am currently assigned to the Child Exploitation and Human Trafficking Task Force, which is made up of members of both the FBI and the New York City Police Department. I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with other law enforcement officers and witnesses; my examination of surveillance videos, photographs, law enforcement reports, and other law enforcement records; and my involvement in this investigation. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. Based on my participation in this investigation, including my review of messages and videos sent via online social media and messaging services, my review of law enforcement reports, and my conversations with other law enforcement officers, and my training and experience, I have learned the following:

a. On or about January 20, 2024, at approximately 4:46 p.m., an individual reported to the FBI National Threat Operations Center that a user of a certain social media/mobile messaging platform ("Platform-1") with a certain username ("Account-1") had shared approximately six videos with another user of Platform-1 ("Account-2") in which an adult male ("Individual-1," later identified as DERICK COLON, the defendant, as described below) was seen sexually abusing a female child who appears to be approximately six to eight years of age ("Victim-1").

b. In the videos (the “Videos”), Individual-1 appears to be a white or light-skinned Hispanic male with scraggly dark hair and dark facial hair, approximately in his 30s.

c. In some of the Videos, Individual-1 slapped and grabbed Victim-1’s buttocks in a sexual manner, causing Victim-1 to cry. In one Video, Individual-1 rubbed his penis on Victim-1 and sucked on Victim-1’s feet. Victim-1 appeared to be wearing different clothes in different Videos, which tends to indicate that the Videos may have been created on multiple separate days or that there may be more than one victim depicted in these videos. In at least one of the Videos, Victim-1 appeared to be asleep or unconscious.

d. During the Videos, Individual-1 can be heard making comments about Victim-1’s vagina and said in one video that a certain other individual “taught me how to do this to my own daughter.”

e. As part of the conversation in which the Videos were sent, Account-1 asked Account-2 to send back a photo of the user of Account-2’s feet. Account-2 asked Account-1 where he was located, and Account-1 responded, in sum and substance, that he was 22 years old and was in “Jersey.”

f. Account-1 sent the Videos to Account-2 on or about the evening of Friday, January 19, 2024. At the time that Account-1 sent the Videos to Account-2, the user of Account-2 and the person who reported the matter to the FBI were at an event in Massachusetts. As Account-2 was receiving the Videos, the person who reported the matter captured separate videos of the Videos, and then reported the incident to the FBI and provided the videos that person had taken to the FBI.

g. Screenshots of the user profile page for Account-1 reflect that Account-1 has associated with it an animated caricature avatar that can be heavily customized by the user of the account to approximate the user’s physical appearance. The avatar for Account-1 matches the appearance of Individual-1 seen in the Videos, namely, a white or light-skinned Hispanic male with long, scraggly dark hair.

6. Based on my participation in this investigation, including my review of law enforcement and government reports and records, my review of records provided by various service providers, and my conversations with other law enforcement officers, as well as my training and experience, I believe that Individual-1 is DERICK COLON, the defendant. Specifically, I have learned the following, in substance and in part:

a. Records provided by Platform-1 reflect that Account-1 is associated with a certain telephone number ending in -9396 (the “9396 Phone Number”) and a certain date of birth (the “DOB”), and was recently accessed through a certain IP address (the “IP Address”).

b. Records provided by a certain internet service provider reflect that the IP Address is serviced by the provider through an account subscribed to in the name DERICK COLON, the defendant, with a specific address on Alexander Avenue in the Bronx (“Address-1”), and the 9396 Phone Number (i.e., the same phone number associated with Account-1).

c. Records maintained by the New York Department of Motor Vehicles reflect a driver's license entry for DERICK COLON, the defendant, with the same date of birth (the DOB) affiliated with Account-1, and with a photograph that matches the appearance of Individual-1 in the Videos.¹

d. The Videos depicting Individual-1, the avatar showing the appearance of the user of Account-1, and the DMV photograph of DERICK COLON, the defendant, appear to all depict the same individual.

7. Based on my participation in this investigation, including my review of law enforcement and government reports and records, my review of records provided by various service providers, and my conversations with other law enforcement officers, as well as my training and experience, I have also learned the following:

a. On or about January 21, 2024, United States Magistrate Judge Katharine H. Parker signed a premises search warrant (the "Search Warrant") authorizing the search of the apartment at Address-1. On or about the same date, law enforcement officials, including police officers with the New York City Police Department and special agents with the FBI (the "Officers"), executed the Search Warrant.

b. When the Officers knocked, no one answered the door. The Officers tried the door handle, and the door was not locked. Upon entering the residence, the Officers observed DERICK COLON, the defendant, sitting on the couch beside a girl who appeared to be approximately four years old ("Victim-2"). The Officers observed Victim-2 standing on the couch and crying.

c. When the Officers informed DERICK COLON, the defendant, that they were at Address-1 to make sure that Victim-2 was safe, COLON stated, in sum and substance, that he does not live at Address-1 but that he is homeless and stays at Address-1 sometimes. COLON stated that the residence belonged to his sister. COLON stated further, in sum and substance, that Victim-2 was his daughter, that she was "okay," and that he does not "touch her down there or anything." The Officers had not asked COLON about whether he physically abused his daughter before he referenced "touching her down there." The Officers then placed COLON under arrest and seized the cellphone he had been holding (the "Phone") pursuant to the Search Warrant.

d. A special agent with the FBI reviewed the contents of the Phone and found approximately twelve videos in which DERICK COLON, the defendant, is seen sexually abusing Victim-2, including at least one video in which COLON vaginally penetrates Victim-2 with his penis.

e. Following his arrest and after waiving his *Miranda* rights, DERICK COLON, the defendant, stated, in sum and substance, that he "messed up" and that he had rubbed his penis on Victim-2's vagina over her underwear. In addition, COLON stated further, in sum and substance, that he used Account-1 to send the Videos to Account-2.

¹ The DMV records reflect a different physical address for COLON that is not Address-1.

WHEREFORE, I respectfully request that DERICK COLON, the defendant, be imprisoned or bailed, as the case may be.

/s authorized electronic signature

STACY TURANSKY
Special Agent
Federal Bureau of Investigation

Sworn to before me this 22nd day of January, 2024.



THE HONORABLE SARAH NETBURN
Chief United States Magistrate Judge
Southern District of New York